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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
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3 UNITED STATES OF AMERICA,

4 v.

23 Cr. 134 (VSB)

5 CALVIN DARREN, JR.,

6 Trial
7 Defendant.
-----x

8 New York, N.Y.
9 September 24, 2024
10 3:40 p.m.

11 Before:

12 HON. VERNON S. BRODERICK,

13 District Judge
14 -and Jury-
APPEARANCES

15 DAMIAN WILLIAMS

16 United States Attorney for the
Southern District of New York

17 KEVIN MEAD

18 STEPHEN J. RITCHIN

19 WILLIAM C. KINDER

BRANDON C. THOMPSON

Assistant United States Attorneys

DONALDSON CHILLIEST & McDANIEL LLP

BY: XAVIER R. DONALDSON

-and-

ANTHONY RICCO

STEVEN Z. LEGON

Attorneys for Defendant

Also Present:

Alexander Ross, Paralegal

Arjun Ahuja, Paralegal

Melissa Baccari, FBI Special Agent

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1 (A jury of twelve and three alternates was impaneled
2 and sworn)

3 (In open court; jury not present)

4 THE COURT: Is there anything that we need to do
5 before we take our lunch break?

6 MR. MEAD: Two very brief things, your Honor.

7 One is the witness from Aflac, who may or may not
8 testify today, I have been getting her name wrong in various
9 documents, including the documents to the Court. I had named
10 her as "Mary McMullen." Her name is, in fact, Jennifer Michele
11 McMullin.

12 THE COURT: Okay.

13 MR. MEAD: The second thing is we informed the Court
14 yesterday morning, we do intend to introduce a number of
15 documents. In particular, before even we call our first
16 witness, the government intends to introduce a number of emails
17 pursuant to a certification. Those are the same emails that
18 were in the email to defense counsel that I handed up yesterday
19 morning. It's all of the 2000 series within that document.

20 We have not yet been informed of any defense
21 objections, but obviously we don't want to break the trial to
22 deal with objections when we offer those documents, your Honor.

23 THE COURT: Okay. So it's the 2000 series in the
24 email that you provided yesterday. Let me hear from the
25 defense with regard to those documents.

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1 MR. DONALDSON: One second, Judge.

2 THE COURT: Sure.

3 (Counsel conferred)

4 MR. DONALDSON: Judge, I believe that I did, but to
5 make sure, let me just get the lunch hour, but I don't think I
6 do at this point.

7 THE COURT: All right. So I'd ask, Mr. Donaldson, if
8 you take a look at that and if anything comes up, notify the
9 government immediately and let me know so that I can take a
10 look at each of the documents that there may be a dispute about
11 and make a ruling, okay? We'll hear from the parties and make
12 a ruling.

13 Okay. All right. So we're going to come back at
14 3:30, all right? Oh, I'm sorry. Was there another issue?

15 MR. MEAD: No, Judge. Does it make sense for us to
16 come back five minutes before?

17 THE COURT: That's fine. 3:25 is fine. Thank you
18 very much.

19 (Luncheon recess)

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1 AFTERNOON SESSION

2 3:40 p.m.

3 (In open court; jury present)

4 THE COURT: Ladies and gentlemen, you are now the
5 jury. There is no higher function in our legal system. From
6 now on, whenever you enter or leave the courtroom as a jury,
7 the parties and the audience will rise, the same way as they do
8 for me, because you're every bit as important and powerful as
9 any judge.

10 Let me introduce or reintroduce some of the people who
11 are here in the courtroom. You have met the defendant,
12 Mr. Darden. His attorneys are in the back row, and the
13 prosecution team is here in the front table. My courtroom
14 deputy that you've also met, Ms. Disla, is seated to my right,
15 and my deputy clerk, Ms. Folly. Is seated directly in front of
16 me. Now, it's Ms. Folly's job to help me with any research if
17 there are any legal issues that come up.

18 Now, throughout this trial there will also be court
19 reporters who you've seen throughout the jury selection, and
20 they will continue to be here during the trial so that there's
21 a verbatim record as to what has happened.

22 Preliminary instructions, the role of the judge and
23 the jury. In the American system of justice, the judge and the
24 jury have separate roles. My job is to instruct you as to the
25 law that governs the case. I will give you some instructions

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1 now, and others from time to time during trial. At the end of
2 the trial, I will give you detailed instructions about the law
3 you will need to apply when you deliberate. Your job as jurors
4 is to determine the facts based on the evidence presented at
5 the trial.

6 You are the only triers of the facts, and your
7 decisions on factual issues will determine the outcome of this
8 case. It is important that you discharge your duties without
9 discrimination, meaning that bias regarding the race, color,
10 religious beliefs, national origin, sexual orientation, gender
11 identity, or gender of the defendant, any witnesses, and the
12 lawyers should play no part in the exercise of your judgment
13 throughout the trial.

14 You must not take anything that I say or do during the
15 trial as indicating what my opinion is or what your verdict
16 should be. It is not my job to even have such an opinion. And
17 if I did, it should not influence you in any way.

18 With regard to evidence, you must pay close attention
19 to all of the evidence presented. Evidence consists of the
20 testimony of witnesses, exhibits that are admitted as evidence,
21 and stipulations agreed to by the attorneys. A stipulation is
22 simply an agreement between the lawyers about facts or
23 testimony.

24 Certain things are not evidence in the case, and you
25 must not consider them as evidence. For example:

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1 One, statements and arguments by the lawyers are not
2 evidence. They are simply arguments in which they will tell
3 you what they think the evidence proves and how they think you
4 should analyze the evidence. You should consider these
5 statements and arguments only to the extent they appeal to your
6 own common sense, and you should under no circumstances
7 consider them as evidence. My statements are not evidence
8 either.

9 Two, questions by the lawyers are not evidence; only
10 the answers given by the witness are evidence. For example, if
11 a witness is asked, "It was raining that day, wasn't it?" And
12 the witness stays, "No, it wasn't," then based upon that
13 question and answer, there is no evidence in the case that it
14 was raining that day, no matter how convinced the lawyer
15 sounded when he or she was asking the question.

16 Three, objections to questions are not evidence. The
17 lawyers are obligated to make an objection when they believe
18 evidence being offered is improper under the rules of evidence.
19 You should not be influenced by the objection or by my ruling
20 on it. If the objection is sustained, ignore the question and
21 any answer that may have been given. If the objection is
22 overruled, treat the answer like any other.

23 Four, any testimony that I exclude or strike or tell
24 you to disregard is not evidence, and you must not consider it.
25 If I instruct you that some evidence is only to be considered

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1 for a certain purpose, you must follow that instruction.

2 Five, and of course anything you may see or hear
3 outside the courtroom is not evidence and should be disregarded
4 by you. You are to decide the case only on the evidence
5 presented here in the courtroom.

6 In deciding the facts of the case, you will have to
7 decide the credibility of the witnesses – that is, how truthful
8 and believable they are. How do you decide what to believe and
9 what not to believe? You are going to listen to the witnesses,
10 observe them, and then decide, just as you would decide such
11 questions every day in your ordinary life.

12 Did they know what they were talking about? Were they
13 honest, open, and truthful? Did they have a reason to falsify,
14 exaggerate, or distort their testimony? Is there any reason to
15 think they might be mistaken about what they are telling you?
16 What was their demeanor or manner when testifying? How did
17 their testimony square with the other evidence in the case? In
18 other words, is there other evidence that supports their
19 testimony or undermines it? Considering these sorts of issues
20 will help you determine what testimony to accept and what
21 testimony to reject.

22 As the trial proceeds, you may have impressions of a
23 witness or a subject, but you must not allow those impressions
24 to become fixed or hardened. Because if you do, in a sense you
25 foreclose consideration of the testimony of other witnesses or

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1 other evidence that is to come. This would be unfair to one or
2 the other.

3 A case can be presented only step by step, witness by
4 witness, until all the evidence is before you. We know from
5 experience that frequently we will hear a person give his
6 version of an event that sounds most impressive and even
7 compelling. And yet, when we hear another person's version of
8 the same event or even the same witness questioned further with
9 respect to it, what seemed quite compelling and impressive may
10 be completely dissipated or weakened.

11 Likewise, if a witness testifies about something and
12 it does not make much of an impression, but later evidence
13 supports what the witness said, what did not seem particularly
14 compelling or impressive when you first heard it may be
15 considerably strengthened.

16 So remember that there may be another side to any
17 witness's story, and there may be more to come on an issue. I
18 cannot emphasize strongly enough that you must keep an open
19 mind until the trial is over. You should not reach any
20 conclusions until you have all the evidence before you.

21 In order to ensure that you decide the case only on
22 the evidence and that you not be influenced in any way by
23 anything that might occur outside the courtroom, I must give
24 you a specific set of instructions.

25 First, do not discuss this case with anybody while the

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1 case is going on. That includes even members of your own
2 family and close friends. You may tell your family, friends,
3 and employer that you are a juror in a case and approximately
4 how long it is expected to last, but do not tell them anything
5 else about the case until after you have been discharged.

6 Not discussing the case includes not blogging,
7 tweeting, texting, using Facebook and the like. Until you are
8 discharged, you cannot say anything by any means or in any
9 forum other than that you are a juror. I cannot emphasize
10 strongly enough how important it is that you not discuss the
11 case – in person, by social media, or otherwise – until the
12 case is over.

13 My instruction that you not discuss the case also
14 includes not discussing it even amongst yourselves while the
15 trial is ongoing. You will have the opportunity to – indeed,
16 the duty to – discuss the case among yourselves later on, but
17 that can happen only after all of the evidence is in and the
18 case is given to you to discuss and decide in the jury room.

19 This rule is important because experience has shown
20 that when people express an opinion about the case or about a
21 witness, they may become attached to that opinion and their
22 views may harden. And it is important that that not happen and
23 that you keep an open mind until you have heard all of the
24 evidence.

25 So do not talk about the case, even with each other,

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1 until I tell you to do so. Not talking to each other about the
2 case includes not texting, emailing, creating a Facebook group,
3 or doing anything like that.

4 Second, you are not to read anything in the newspapers
5 or elsewhere about the case, if that should occur. Also, you
6 are not to listen to or view any reporting about this case if
7 that should be broadcast on TV, over the radio, or on the
8 internet. And I think I also mentioned can't watch *Dancing*
9 *with the Stars*, all right?

10 Third, do not do any research or any investigation
11 about the case on your own. Do not go to visit any place you
12 may hear described during trial. Do not do any research on the
13 internet or in the library or any other reference source. Do
14 not Google anyone or anything related to the case.

15 I know it is hard in this day and age not to go to the
16 internet when you're curious about something, but I cannot
17 emphasize enough how important it is that you not do that or
18 conduct any form of outside research relating to this case
19 while the trial is going on.

20 The reason for the rules against media reports or
21 independent research are that you might learn something that is
22 wrong, and it would be unfair to the parties if you were to
23 have information from outside sources that the parties did not
24 know about and did not have the opportunity to address.

25 Fourth, be sure that I am informed if any person that

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1 you recognize comes into the courtroom. This is a public
2 trial, so that could happen, but it is important that you not
3 hear from them what may have happened in court while the jury
4 was not present. If you should see a friend, relative, or
5 acquaintance come into the courtroom, please send a note to me
6 through my deputy clerk, Ms. Disla, at your first opportunity.

7 Fifth, you are not to allow anyone to speak to you
8 about this case. If you are approached by anyone to speak
9 about it, politely tell them that the judge has instructed you
10 not to do so. If any person approaches you or seeks to contact
11 you about the case, you are also required to report the
12 incident promptly to me, and you can do that through Ms. Disla.

13 As I mentioned earlier, the lawyers, the parties, and
14 the witnesses are not supposed to talk to the jury outside the
15 courtroom, even to offer a friendly greeting. So if you happen
16 to see any of them outside the courtroom, they will and should
17 ignore you. Please take no offense to this. They will be
18 acting properly by doing so. Experience has shown that even
19 innocent conversations with jurors can sometimes be
20 misinterpreted, so courts have a hard and fast rule that the
21 lawyers, parties, and witnesses cannot speak to jurors, period.

22 The parties are entitled to have you personally render
23 a verdict in the case on the basis of your independent
24 evaluation of the evidence presented here in this courtroom.
25 Speaking to others about this case or exposing yourself to

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1 information outside the courtroom would compromise your
2 fairness to the parties. So that is why you cannot communicate
3 about the case or learn anything about the case from any source
4 other than what is presented in the courtroom during the trial.

5 Finally, if anything should happen involving any juror
6 which is of an unusual nature or which you think I should be
7 told about, do not discuss it with any other juror. Simply
8 give Ms. Disla a note to the effect that you want to speak with
9 me about it, and I can hear what it is that you have to say. I
10 make these remarks not expecting anything unusual or improper
11 to happen. It's just safer to take the precaution to alert you
12 in advance just in case.

13 Finally, let me say a few words about trial procedure.
14 The trial essentially has four parts.

15 First, each side will have the opportunity to make
16 opening statements to you. As I have told you already, these
17 statements are not evidence. Their purpose is to give you an
18 idea in advance of the evidence that the lawyers expect you to
19 hear and see. These statements allow the lawyers to give you a
20 preview of what this case is about, but the only evidence comes
21 from the witnesses, exhibits, and stipulations.

22 The government has the burden of proof, so it will go
23 first. The defendant has no burden of proof and does not have
24 to do anything at this trial. So the defendant does not have
25 to give an opening statement. But if he chooses to, the

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1 defendant's lawyers will go next.

2 Second, after the opening statements, you will hear
3 the testimony of witnesses. This is the longest part of the
4 trial. The government's witnesses go first. Each witness will
5 first give direct testimony, and then he or she may be
6 cross-examined by the other side. Sometimes there will be
7 redirect testimony and occasionally recross-examination.

8 Again, a defendant does not have to question
9 witnesses, but may choose to do so. Documents or physical
10 objects or stipulations will be received in evidence.
11 Following the government's case, the defendant may, but need
12 not, present witnesses and other evidence. If the defendant
13 does call witnesses, those witnesses will be examined and
14 cross-examined just as the government witnesses were. If the
15 defendant chooses to present evidence, it is possible that the
16 government would then present some brief rebuttal to that
17 evidence.

18 Third, after all of the evidence has been received,
19 each party will have an opportunity to make closing arguments.
20 The lawyers will review the evidence and make arguments to you
21 as to what conclusions they think you should or should not draw
22 from the evidence. These arguments also are not themselves
23 evidence, but they may be helpful to you in summarizing the
24 case before your deliberations.

25 Fourth, after these arguments or summations, as they

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1 are called, I will give you detailed instructions as to the law
2 that applies and controls in this case, and you must follow
3 those instructions. These instructions to the jury are
4 sometimes referred to as the jury charge. After the jury
5 charge, you will go to the jury room to deliberate and discuss
6 the evidence in order to decide the facts and render a verdict.

7 A few housekeeping matters before we begin with
8 opening statements. I believe Ms. Disla has shown you the jury
9 room, and that is where you should report in the morning. She
10 will give you her telephone number where you can reach her if
11 there is an emergency. Please give her your home, work, and
12 cell phone numbers just in case we have to leave a message
13 concerning a last-minute schedule change or other issue.
14 Please also give her your email address.

15 As I mentioned, this trial is scheduled to last
16 approximately two and a half weeks. As I mentioned, we will
17 sit Monday through Friday. Our trial day will begin at
18 10:00 a.m. We will take a lunch break from approximately
19 12:45 to 2:00, and we will end at 5:30 each day.

20 We will also have one morning break and one afternoon
21 break. For the lunch break, you're welcome to bring your lunch
22 for that break or you may walk out and get something to eat.
23 If you need to take a break before the scheduled morning or
24 afternoon break, just raise your hand. But if you can wait
25 until the scheduled break, I'd ask that you do so.

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1 Be on time after the breaks and in the morning. If
2 you are late, you will be keeping everyone waiting because we
3 can't get started unless all of you are here. If there are
4 days when we deviate from the 10:00 a.m. to 5:30 schedule, I
5 will let you know in advance.

6 If you wish, you can take notes. Ms. Disla will
7 provide you with paper and pen for that purpose. But if you
8 take notes, you must leave them in the jury room when you go
9 home for the night. And remember, any notes you take are for
10 your own personal purposes to help you recall or focus, but
11 they are not to be relied on by anyone else.

12 It is completely up to you whether or not you take
13 notes. Some people find it helps them concentrate; other
14 people find it's distracting. It's entirely up to you. If you
15 do not take notes, you should rely on your independent
16 recollection of the evidence.

17 Either way, when you deliberate, you should discuss
18 what the evidence was, not what one juror's or another's notes
19 do or do not say. So we're just going to get the notebooks,
20 ladies and gentlemen, to distribute them to you. Remember, you
21 don't have to take notes. It's entirely, as I said, up to you,
22 and they're for your personal use.

23 When you are given the opportunity to deliberate, you
24 should not rely on your notes exclusively. If there's some
25 question about testimony or an exhibit, you can ask for the

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Opening - Mr. Kinder

1 testimony to be read back to you. In addition, I will endeavor
2 to provide all of the exhibits to you in the jury room so that
3 you'll have them with you when you deliberate. Okay?

4 All right. So in a moment, we will begin with the
5 government's opening statement. All right. We're just going
6 to get you the pads just in case you want to take notes. All
7 right. Thank you.

8 And we might end slightly early today, and by that I
9 mean 5:20, 5:25 so that Ms. Disla can show you how to enter and
10 leave the jury room because there are going to be swipe cards
11 and some other things. Okay.

12 I think everyone has a pad and pen, okay? All right.
13 We can begin with the government's opening statement. Thank
14 you.

15 MR. KINDER: This case is about how the defendant,
16 Calvin Darden, Jr., cheated two professional basketball players
17 out of millions of dollars, and how he spent their money on
18 himself. The defendant and his co-conspirator, a sports agent,
19 tricked one of those players into sending \$7 million that the
20 player thought was going toward the purchase of a professional
21 women's basketball team.

22 THE COURT: So ladies and gentlemen that is the fire
23 alarm. We're going to wait to hear instructions from the fire
24 safety director in a moment, okay? I apologize for the
25 interruption.

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Opening - Mr. Kinder

1 (Pause)

2 THE COURT: Okay. Why don't we continue. There will
3 be a subsequent announcement, ladies and gentlemen -- I guess
4 we're going to have to wait. We'll wait until the alarm stops
5 and we get a notification.

6 Just so you know, typically when this happens, they
7 discover it's nothing, and they'll let us know, all right?

8 (Pause)

9 THE COURT: Why don't we see if we can continue and
10 hopefully we'll hear shortly. Go ahead.

11 MR. KINDER: The defendant and his co-conspirator, a
12 sports agent, tricked one of these players into sending
13 \$7 million that the player believed would go toward the
14 purchase of a professional women's basketball team. They
15 tricked the other player into sending \$1 million as a loan for
16 a top professional basketball prospect.

17 The defendant and the sports agent lied to the players
18 about purchasing the team and about making the loan. Instead
19 of using the money as they promised, the defendant and the
20 sports agent stole it. The defendant wired it from account to
21 account to cover his tracks, and he spent it on luxury cars,
22 expensive jewelry, a grand piano, and the victims got nothing.

23 How did the defendant pull this off? He lied over and
24 over. The defendant pitched himself as a guy with the right
25 know-how and the right connections to get deals done. But the

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Opening - Mr. Kinder

1 con here was simple. Two victims paid \$8 million because of
2 the defendant's lies. They got nothing for it, and the money
3 ended up in the defendant's pockets.

4 That is why we are here today. Because when the
5 defendant cheated two professional basketball players out of
6 their money and spent their money on himself, he committed
7 multiple federal crimes.

8 This is the government's opening statement. It's our
9 opportunity to explain what the evidence at this trial is going
10 to show and how that evidence will prove that the defendant is
11 guilty.

12 So what will the evidence show? You'll learn that
13 Dwight Howard, a player in the National Basketball Association,
14 or NBA, wanted to buy the Atlanta Dream, a team in the Women's
15 National Basketball Association or WNBA. In 2020, when it
16 looked like the owners of the Dream might sell the team, Howard
17 talked to his sports agent about buying it.

18 The sports agent was the defendant's co-conspirator.
19 The sports agent introduced Howard to the defendant. The
20 defendant and the sports agent proposed to Howard that he buy
21 the team indirectly through a company. That company, they told
22 Howard, would be run by the defendant's father, Calvin Darden,
23 Sr. The defendant's father was a former corporate executive
24 and a prominent Atlanta businessman. The defendant and the
25 sports agent told Howard that if Howard paid for the team, the

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Opening - Mr. Kinder

1 company would buy it and run it for him.

2 Now, the defendant didn't simply ask Howard for the
3 money; he made Howard think that this was a real transaction.
4 He mixed fact with fiction. The defendant enlisted his father,
5 who actually was a prominent Atlanta businessman, to attend
6 meetings about buying the team. The defendant himself met with
7 the sellers of the team and representatives of the WNBA, and
8 the defendant created and sent Howard a pitch deck that
9 explained the company's vision for the Atlanta Dream.

10 The defendant's pitch deck was polished,
11 sophisticated, and seemingly backed by big names, big
12 companies, and serious professionals. So Howard directed his
13 bank to send \$7 million to an account controlled by the
14 defendant for the purpose of buying the Atlanta Dream.

15 But the defendant's proposal was full of lies. The
16 pitch deck's claims about the companies supporting the bid for
17 the Dream, most of those were simply made up. The claims about
18 prominent people supporting the bid for the Dream, most had no
19 idea their names were being used.

20 The promise to use Howard's money to buy the team, it
21 was a lie. Instead, almost immediately after Howard sent the
22 money, the defendant began spending it on himself. He sent
23 some of it to his co-conspirator, the sports agent. The rest,
24 the defendant moved through other accounts he controlled to
25 launder it.

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Opening - Mr. Kinder

1 And he spent that money on extravagant purchases for
2 himself. A Rolls-Royce, works of art, a brand new house with a
3 koi pond worth tens of thousands of dollars. Not one single
4 dollar of the 7 million that Howard sent was used to buy the
5 Atlanta Dream. The defendant and his co-conspirator stole all
6 the money.

7 Now, you'll learn that this was not the only time that
8 the defendant and the sports agent scammed an NBA player.

9 THE COURT: One moment.

10 (Pause)

11 THE COURT: Okay. You may continue.

12 MR. KINDER: You'll learn that this was not the only
13 time that the defendant and the sports agent scammed an NBA
14 player.

15 In 2019, the sports agent and the defendant wanted
16 Chandler Parsons, an NBA veteran, to make a loan to a college
17 basketball player who was certain to be a top pick in that
18 year's NBA draft. The sports agent went to Parsons with the
19 proposal. To persuade Parsons to send the money, the defendant
20 lied to the sports agent about having a connection to the
21 college player, and the sports agent passed that lie on to
22 Parsons.

23 The defendant and the sports agent had fraudulent
24 contracts drafted, including one falsely showing that the
25 college player had signed the co-conspirator as his agent.

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Opening - Mr. Kinder

1 Parsons then wired \$1 million to the sports agent for
2 the purpose of funding a loan to the college player. But just
3 as with the deal to purchase the Atlanta Dream, that loan, it
4 was a lie. The college player never signed with the sports
5 agent, never received a loan, never agreed to take a loan. The
6 sports agent and the defendant simply stole Parsons' money and
7 spent the \$1 million themselves.

8 Most of it went to the defendant, who made more
9 extravagant purchases, a Mercedes G-Wagon, lavish watches.
10 None of the money went to the college player, and none of the
11 money was sent back to Chandler Parsons.

12 So that is what the evidence will show, that the
13 defendant conned two NBA players out of their money and spent
14 their money on himself.

15 Now let's talk about how we are going to prove that
16 the defendant is guilty beyond a reasonable doubt.

17 The evidence will come in many forms. You'll hear
18 from witnesses like Dwight Howard, who will explain how the
19 defendant and the sports agent tricked him into thinking their
20 lies were real. You'll hear from people involved in the actual
21 sale of the Atlanta Dream who will explain that, although the
22 defendant discussed the company's bid with the team sellers,
23 the defendant ultimately was told that the dream was going to
24 be sold to another buyer.

25 You'll hear from individuals and companies listed in

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Opening - Mr. Kinder

1 the defendant's pitch deck. They will tell you that the
2 representations in the pitch deck about their involvement in
3 the company's bid to buy the Dream were not true. Multiple of
4 them had never even heard of the defendant or his company.

5 You will hear from the college player who now plays in
6 the NBA who will tell you he does not know the defendant, never
7 signed with the sports agent, and never received any loan from
8 the defendant, the sports agent, or Parsons.

9 You'll see texts and emails to and from the defendant.
10 Those messages will show you how the defendant and the sports
11 agent hatched and executed their scheme to steal from Howard
12 and Parsons.

13 And you will see the financial records, records that
14 will allow you to follow the money. Those records will show
15 you how the victims' money ended up in the defendant's pockets,
16 how the defendant received the money in an account in the name
17 of a corporation that he controlled, and moved it through
18 multiple accounts to hide where it came from and to hide his
19 control of it, how the defendant used the money for himself,
20 how none of Howard's money was used to buy the Atlanta Dream
21 and none of Parsons' money was used as a loan to the college
22 player, how the defendant's promises were lies.

23 At the end of the trial, we will have an opportunity
24 to speak with you again and to show you how everything you've
25 seen and heard fits together. Between now and then, we ask

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Opening - Mr. Ricco

1 that you do three things: First, pay close attention to the
2 evidence; second, listen to Judge Broderick's instructions on
3 the law; and, third, use your common sense, the same common
4 sense you use every day.

5 If you do those three things, you will return the only
6 verdict that is consistent with the evidence, the law, and
7 common sense - the defendant, Calvin Darden, Jr., is guilty.

8 THE COURT: Okay. Thank you.

9 Defense opening statement, Mr. Ricco?

10 MR. RICCO: Not only is it -- well, first of all, good
11 afternoon, everybody. Good afternoon, Judge. Good afternoon,
12 prosecution, defense, and the community.

13 These are opening remarks, and it's always difficult
14 to give an opening remark. It's kind of difficult to stand
15 before a group of people and talk about your view of the case
16 when a person just says you're a liar, you're a liar, you're a
17 liar, you a conman, you stole, you a conman, you stole.

18 My brow is this way because I recognize that this is
19 an important time in the case. It's the beginning, and I often
20 find myself in difficulty as to how do you start? After a
21 person has been accused, called a liar over and over, how do
22 you start with that?

23 Well, you really start where the government left off,
24 and that is you must keep an open mind. You must wait until
25 you hear the instructions of the Court because that's what the

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Opening - Mr. Ricco

1 law requires.

2 We spent the last couple of days picking a jury,
3 difficult to do, and it was time consuming, but it's for a
4 reason. The reason is because we have hope. All of us have
5 hope, one simple word - hope that we can find 12 or more
6 people - here 15 - who, given the world we live in with all of
7 its difficulty, can come in and do something that's required,
8 and that is to hold the government to its burden of proof.

9 Here, the government has charged five counts against
10 Calvin Darden, Jr. And I want -- an opening sometimes is what
11 people say is like a guidepost for how do you think about what
12 you're going to experience over the next two weeks.

13 And what you're going to experience is you're going to
14 hear evidence from witnesses, and you're going to see exhibits.
15 And it's going to be very important that your heart is not
16 taken by the words of the direct or an opening. The witnesses
17 will testify on direct, but they're going to be cross-examined.
18 They'll be cross-examined by Mr. Donaldson, Mr. Legon, perhaps
19 myself or another lawyer that you've heard about, but haven't
20 met yet, which is Ms. Reed.

21 And so I want to remind you of something that happened
22 many years ago, and then I'm done. This is not a defense
23 story. It's not a prosecution story. It's a story about hope,
24 and it's directly related to your jobs here. And that is that
25 many years ago, many years ago, a young man went off to Vietnam

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Opening - Mr. Ricco

1 as a teenager, good looking young man. And he went to serve
2 our country. And he went to Vietnam in 1967 and he was there
3 two weeks and his life was lost.

4 Most of us today have no memory of him, no knowledge
5 of him, nothing about his tremendous sacrifice that he made as
6 a teenager. And but for a small boy who knew him, his memory
7 may have been lost forever. And as I grew, I often wondered
8 what Jimmy Grant felt like on his way to Vietnam. What was his
9 hopes? What motivated him as a teenager to make such a great
10 risk and sacrifice? A part of that great risk and sacrifice is
11 who you are today and who we all are today.

12 And so yeah, you know, we sit here late in the day,
13 many hours working hard to try to get it right. And for some
14 of us, we recognize that that effort is a small price that was
15 paid because other young people that you never met or never
16 knew about paid a greater price for that. And that price is
17 the ability to sit here as a juror.

18 And so what I'm saying to you all, as we go through
19 over the next two weeks, is that we give honor and dignity, not
20 only to our oath, which everybody gave, but to that tremendous
21 sacrifice that was made for you to be jurors, and for a
22 defendant to receive a fair trial.

23 And so as I sit back and think about that kind of
24 sacrifice, as I'm here late in the day and I'm asked to try one
25 more time a little harder, it grounds me. And so I suggest to

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1 you - and it's only a suggestion - when it gets tough and you
2 know you feel like you've heard enough, remember what Judge
3 Broderick said, don't do that. Don't fall into that. Keep
4 your mind open. Everybody swore they could do it, and we hope
5 that everybody was telling the truth about that.

6 And so on behalf of Attorney Donaldson, Legon, and
7 Ms. Reed, we all hope that you're able to fulfill that promise
8 and that you don't rush to judgment.

9 Now I'm getting ready to get right out your way.
10 Don't worry about it because the case needs to start. The
11 evidence is going to come from the witness stand, not from the
12 lawyers. That is on both sides. And so I would say to you all
13 serve this case, do your sworn oath, honor. Keep in mind the
14 tremendous sacrifice that was made by lot of young people that
15 none of us even know about or care about.

16 That's not a defense story to get you to go along with
17 me, and it's not a story to get you to go along with the
18 prosecution. It's a story to remind you, as it's late in the
19 day, that this is an important event for everybody concerned.
20 So your Honor, thank you. And we're prepared to get started
21 with the case.

22 THE COURT: All right. Thank you, Mr. Ricco.

23 Okay. The government's first witness. I know you
24 probably need to move the podium.

25 MR. MEAD: Before the government calls its first

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witness, your Honor, we're introducing into evidence pursuant to the 902(11) certification our 2000Z, the following exhibits: 2101, 2102, 2107, 2117, 2119 and 2119A, 2129, 2136, 2139, 2142, 2144, and 2144A, 2145, 2154, 2158, 2201, 2303, 2401, 2402, 2404, 2405, 2407, 2408, 2410, 2413, 2414, 2418, 2419, 2501, 2506, 2508, and, finally, 2510.

THE COURT: Okay. So any objection to those exhibits?

MR. DONALDSON: No.

THE COURT: Okay. So Government's Exhibits 2101, 2102, 2107, 2117, 2119, 2119A, 2129, 2136, 2139, 46, 44, 44A, 45, 54 and 58 are admitted in evidence, as are Government Exhibits 2201, 2303, 2401, 2402, 04, 05, 07, 08, 10, 13, 14, 18, 19, are admitted in evidence. And 2501, 2506, 08, 10.

(Government's Exhibit 2101, 2102, 2107, 2117, 2119, 2119A received in evidence)

(Government's Exhibit 2129, 2136, 2139, 2144, 2144A received in evidence)

(Government's Exhibit 2145, 2154, 2158, 2201, 2303, 2401, 2402 received in evidence)

(Government's Exhibit 2404, 2405, 2407, 2408, 2410, 2413 received in evidence)

(Government's Exhibit 2414, 2418, 2419, 2501, 2506, 2508, 2510 received in evidence)

THE COURT: Mr. Mead, did I get each of those exhibits?

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1 MR. MEAD: I don't think you read 2142, but apologies
2 if I missed it, your Honor.

3 THE COURT: So it's 2142? I had not written that
4 down. So 2142 is also admitted in evidence.

5 (Government's Exhibit 2142 received in evidence)

6 THE COURT: Thank you.

7 Are we ready for the government's first witness?

8 MR. THOMPSON: Yes, your Honor, the government calls
9 John Brock, III.

10 JOHN BROCK,

11 called as a witness by the Government,

12 having been duly sworn, testified as follows:

13 (Continued on next page)

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Brock- Direct

1 MR. THOMPSON: Your Honor, with the Court's permission
2 my understanding is that the screen at the podium is not
3 working. If the Court would allow me to examine Mr. Brock from
4 standing here if the Court would allow it.

5 THE COURT: The only thing I would ask is that you
6 move one way or the other so counsel can make sure they can see
7 the witness. That's fine if you examine from in place.

8 MR. THOMPSON: May I proceed?

9 THE COURT: You may.

10 DIRECT EXAMINATION

11 BY MR. THOMPSON:

12 Q. Good afternoon, Mr. Brock.

13 Please describe your educational background for us?

14 A. I graduated from high school in Moss Point, Mississippi,
15 and I have bachelor's degree, master's degree in chemical
16 engineering from Georgia Tech in Atlanta.

17 Q. Please describe for us your working career after you
18 completed your education?

19 A. I first started at Procter and Gamble in Cincinnati in
20 product development, stayed there 11 years. I was recruited to
21 join Cadbury Schweppes in Stamford, Connecticut where I had a
22 variety of positions. Became a general manager, ultimately was
23 transferred to London for seven years where I was chief
24 operating officer. After that period of time, I moved to
25 Brussels, Belgium where I was the chief executive officer of

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Brock- Direct

1 Interbrew which became InBev, a large beer company. And then
2 in 2006, I joined Coca Cola Enterprises in Atlanta and CEO and
3 chairman. And I was there until 2016 when I retired.

4 Q. Are you familiar with the Atlanta Dream?

5 A. Yes.

6 Q. What is it?

7 A. It is a professional women's basketball team located in
8 Atlanta, Georgia, a member of the WNBA.

9 Q. How did you become to be familiar with Atlanta Dream?

10 A. My wife Mary Brock and her partner Kelly Loeffler were
11 50/50 partners who purchased the Dream in 2010.

12 Q. Did there come a time when you personally played a role
13 with respect to the Atlanta Dream?

14 A. Yes.

15 Q. What role did you play?

16 A. During the ten years that my wife Mary and her partner
17 Kelly owned the Dream, I was an advisor, informal advisor from
18 time to time helping them with their strategies. And then when
19 they decided to sell the team in late 2019, the two owners ask
20 me if, based on my history, I would be willing to act as the
21 primary contact to sell the Atlanta Dream.

22 Q. When you were involved with selling the Atlanta Dream, who
23 owned the team?

24 A. The Dream was owned by an LLC called Me Too LLC, Dream Too,
25 LLC. My apologies. Dream Too, LLC which was a 50/50

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Brock- Direct

1 partnership between Mary Brock and Kelly Loeffler.

2 Q. Do Mary Brock and Kelly Loeffler currently own the Atlanta
3 Dream?

4 A. No.

5 Q. When you began working to sell the Atlanta Dream, what, if
6 anything, did you do with respect to the Women's National
7 Basketball Association?

8 A. I contacted Cathy Engelbert who is the commissioner of the
9 WNBA located in the New York City so that I could inform her
10 that Mary and Kelly had decided they'd like to sell the Dream,
11 and that they'd ask me if I would be the point person for
12 carrying out that program.

13 Q. Approximately when did you contact Ms. Engelbert?

14 A. In January of 2020.

15 Q. After you first made contact with Ms. Engelbert, did you
16 meet her in person?

17 A. Yes.

18 Q. Approximately when did that happen?

19 A. In early 2020, most likely in February of 2020 here in
20 Manhattan.

21 Q. During this meeting, what did you say to Ms. Engelbert?

22 A. I said that Mary and Kelly had had a rewarding ten-year
23 period in owning the Dream, but that they had come to the
24 decision that they would like to sell it, and they'd asked me
25 if I would be the point person in doing that. And so I said to

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1 the commissioner I'd like to, A, inform her; B, understand the
2 process I believe had in place; and C, get her help.

3 MR. DONALDSON: I'm sorry. What was that last answer?

4 THE WITNESS: C, get her help, get her advice and
5 counsel on how we could best do that.

6 MR. DONALDSON: Thank you.

7 Q. After this meeting, did you notify others that the Atlanta
8 Dream was for sale?

9 A. Yes.

10 Q. After this did parties interested in purchasing the Atlanta
11 Dream contact you?

12 A. Yes.

13 Q. When did interested parties begin contacting you?

14 A. Almost immediately.

15 Q. When parties interested in purchasing the Atlanta Dream
16 contacted you, what steps did you take?

17 A. My first step was typically to have a 30 to 45 minute to
18 one-hour phone or zoom conversation with the interested party
19 to make sure that I understood who they were, what their
20 rationale was, a little bit more about their background and;
21 frankly to determine if I thought they were a legitimate
22 potential buyer.

23 Q. What, if any, documents or paperwork did you have
24 interested parties complete?

25 A. The first step is I explained to them was for my attorney

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Brock- Direct

1 David Brown in Atlanta to send them a nondisclosure agreement,
2 which we would call a NDA, and that would enable them to
3 receive from us confidential information, financial, business
4 information about the Dream so that they would have information
5 and could make a decision about whether it was truly something
6 they were interested in or not.

7 Q. Did there come a time when Dwight Howard contacted you?

8 A. Yes.

9 Q. Approximately when did Mr. Howard contact you?

10 A. In early July of 2020.

11 Q. What topic or topics did you and Mr. Howard discuss?

12 A. We talked about his interest in potentially acquiring the
13 Dream. He said to me that, John, as you know, I played
14 basketball in Atlanta.

15 MR. DONALDSON: Objection.

16 THE COURT: Well, objection overruled. Ladies and
17 gentlemen, Mr. Brock's testimony about what Mr. Howard said to
18 him is not being offered, am I correct, is not being offered
19 for the truth, but just the fact that it was said. So
20 Mr. Brock will be allowed to testify about that communication.
21 And, counsel, if you like, I think the podium is back working
22 so.

23 MR. THOMPSON: Thank you, your Honor.

24 THE COURT: Thank you. So objection overruled.

25 THE WITNESS: May I continue?

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Brock- Direct

1 THE COURT: You may.

2 A. Dwight Howard indicated to me he had a keen interest in
3 potentially acquiring the Dream, that he had a connection with
4 the Dream cause he had been to a number of Dream's games. As I
5 was saying he was -- he had played basketball for the Atlanta
6 Hawks. He had been to a number of Dream's games. He was
7 well-known in Atlanta.

8 And he said to me, John, I very much like to be
9 seriously considered as a potential buyer of the Dream.

10 Q. After this initial conversation, did you have additional
11 contact with Mr. Howard pertaining to the Atlanta Dream?

12 A. Yes.

13 Q. Approximately how much time past between your first
14 conversation and when you next communicated with Mr. Howard
15 about the Atlanta Dream?

16 A. Probably only one day.

17 Q. What, at a high level, happened during this next
18 conversation with Mr. Howard?

19 A. I explained to him that the next step if he was truly
20 interested was to sign a nondisclosure agreement that my
21 attorney would get it to him. And as soon as he signed it, we
22 would then furnish to him several important pieces of financial
23 and business information for him to consider.

24 Q. Did there come a time when you interacted with an
25 individual name Charles Briscoe?

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1 A. Yes.

2 Q. Who was Charles Briscoe?

3 A. Charles Briscoe was part of the second conversation I had
4 with Dwight Howard. He was introduced to me as Dwight Howard's
5 agent and someone who would also be involved in the group
6 interested in purchasing the Atlanta Dream.

7 Q. When did you first come into contact with Mr. Briscoe?

8 A. The day after I had my initial conversation with
9 Mr. Howard.

10 Q. And what, if anything, did Mr. Briscoe say to you?

11 A. He emphasize that he was keenly interested also in being
12 part of the group that Dwight Howard had mentioned the day
13 before; that he was Dwight Howard's agent in the NBA; and that
14 he would be involved in the purchase process.

15 Q. Did there come a time when you introduced Mr. Howard and
16 Mr. Briscoe to Ms. Engelbert?

17 A. Yes.

18 MR. THOMPSON: Mr. Ross, can you please publish what's
19 been admitted as Government Exhibit 2102 for the witness and
20 the jury. If you could just zoom in slightly, Mr. Ross,
21 please.

22 THE COURT: Ladies and gentlemen, does it appear on
23 the screens in front of you?

24 JUROR: Yes.

25 THE COURT: Thank you. Go ahead.

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Brock- Direct

1 MR. THOMPSON: Thank you, Mr. Ross.

2 Q. Mr. Brock, what is this?

3 A. It is an email.

4 Q. And are you on this email?

5 A. Yes.

6 Q. What's the date of this email?

7 A. July 10, 2020.

8 Q. And who are the recipients?

9 A. Cathy Engelbert who is the Commissioner of the WNBA, Jamin
10 Dershowitz who is the general counsel of the WNBA.

11 Q. Who is CC'd?

12 A. I am, Dwight Howard and Charles Briscoe.

13 Q. What does the subject line say?

14 A. Introduction to Dwight Howard and his investor group.

15 MR. THOMPSON: Government Exhibit 2102 the body says:
16 Hi, Cathy and Jamin. This is to introduce the two of you and
17 the WNBA to Dwight Howard and his investor group. Dwight is
18 coordinating an investor group consisting of his agent Charles
19 Briscoe, as well as two others, Cal Darden, Sr., and Cal
20 Darden, Jr. As we have very recently discussed, Dwight's group
21 is seriously interested in discussing the possibility of
22 acquiring the Atlanta Dream and continuing to have the Dream
23 located in Atlanta. Dwight has signed our NDA, Chris Sienko
24 and I have had several conversations with his group, and we
25 have furnished important business and financial docs with them.

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1 Q. Who is Chris Sienko?

2 A. Chris Sienko was the general manager of the Atlanta Dream.

3 MR. THOMPSON: Turning back to Government Exhibit
4 2102. Our discussions will continue. The primary contact
5 person for the group will be Charles. He will ensure that
6 other members are kept in the loop. I'm connecting all of you
7 because Mary and Kelly and Jeff and I are convinced that it's
8 now time for Dwight's group to progress discussion with the
9 WNBA about their plans.

10 Q. This email references Mary and Kelly, who is Mary?

11 A. Mary is my wife one of the 50 percent owners of the Atlanta
12 Dream.

13 Q. Who does Kelly refer to?

14 A. Kelly is Kelly Loeffler the other 50 percent owner of
15 Atlanta Dream.

16 MR. THOMPSON: Turning back to Government Exhibit
17 2102. Although Dwight needs no introduction, it is important
18 to know that he lives in Atlanta and has been regular attendee
19 at Dream games. His mother is a long-term season ticketholder.
20 He is friends with several of the Dream players, including
21 Tiffany and Renee. Dwight also knows Mary and Kelly well. I
22 know their investor groups looks forward to linking up with the
23 two of you. Thanks to both of you for ensuring that this
24 happens and for any assistance you can provide as they develop
25 their thinking about the Dream. Let me know if I can help in

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1 any way. Regards, John.

2 Mr. Ross, you can take down that exhibit, please.

3 Q. After you sent Government Exhibit 2102, did there come a
4 time when you were contacted by Calvin Darden, Jr.?

5 A. Yes.

6 Q. Approximately when did Calvin Darden, Jr. contact you?

7 A. A day or perhaps two days after those initial conversations
8 with Dwight Howard and Charles Briscoe.

9 Q. What month and year was that?

10 A. July, early July 2020.

11 Q. Had you previously met Calvin Darden, Jr.?

12 A. No.

13 Q. What did Calvin Darden, Jr. tell you during this
14 conversation?

15 MR. DONALDSON: Objection.

16 THE COURT: I'll allow it. Overruled. You may

17 answer.

18 A. He said that he would be involved with Charles Briscoe and
19 Dwight Howard in evaluating the potential purchase of the
20 Atlanta Dream. He further said that his father Cal Darden, Sr.
21 passed on a hello to me. He reminded me of course that I knew
22 his father Cal Sr. well from the fact that he was a member of
23 the board of directors of Coca Cola Enterprise for the ten
24 years that I was CEO.

25 Q. What, if anything, did Calvin Darden, Jr. tell you about

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Brock- Direct

1 his father's involvement with the effort to purchase the
2 Atlanta Dream?

3 A. He indicated that his father would be one of the major
4 investors in the group purchasing the Atlanta Dream.

5 Q. Who did Calvin Darden, Jr. tell you was part of the
6 investment group?

7 A. Calvin Darden, Sr., Charles Briscoe and Dwight Howard.

8 Q. Did there come a time when you received a letter of intent
9 pertaining to Howard Briscoe and Darden Seniors effort to
10 purchase the Atlanta Dream?

11 A. Yes.

12 Q. Who provided you with this document?

13 A. Cal Darden, Jr.

14 MR. THOMPSON: Mr. Ross, could you please publish for
15 the witness alone what's been marked for identification
16 purposes as Government Exhibit 41 and for the defense.

17 Q. Mr. Brock, do you recognize this document?

18 A. Yes.

19 Q. What is this document?

20 A. It is a letter of intent which we may refer to as an LOI.

21 Q. Did you receive this document?

22 A. Yes.

23 Q. From whom did you receive it?

24 A. From Cal Darden, Jr.

25 MR. THOMPSON: Your Honor, the government offers

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1 Government Exhibit 41.

2 MR. DONALDSON: No objection.

3 THE COURT: Government Exhibit 41 is admitted in
4 evidence and may be published to the jury.

5 (Government's Exhibit 41 received in evidence)

6 MR. THOMPSON: Thank you, your Honor. Mr. Ross, can
7 you please publish to the jury.

8 Government Exhibit 41 says: Letter of intent. This
9 non-binding letter of intent is signed as of July 31, 2020 by
10 and between Dwight Howard, Calvin Darden Sr., and Charles
11 Briscoe, purchasers, and Dream Too, LLC, sellers.

12 Section one says. This letter of intent, or the
13 letter, sets forth the current intentions of the parties as the
14 framework for negotiating the definitive agreement, purchase
15 agreement, that would set forth the terms of a potential
16 acquisition of the assets, sellers business, by purchasers.
17 This letter of intent does not create any legal binding
18 obligations except for confidentiality and exclusivity, as
19 stated below, unless and until parties execute the purchase
20 agreement. Costs for this work undertaken by a party shall be
21 borne by such party. The parties shall use their good faith
22 efforts to negotiate and complete the purchase agreement on or
23 about August 15, 2020.

24 Q. What transaction did this letter of intent contemplate?

25 A. The purchase of the Atlanta Dream by the three individuals

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1 listed.

2 Q. And which three individuals are you referring to?

3 A. Dwight Howard, Cal Darden, Sr., Charles Briscoe.

4 Q. Directing your attention to the bottom of the first page of
5 Government Exhibit 41.

6 MR. THOMPSON: Mr. Ross, if you could focus the screen
7 on section two, two consideration.

8 Consideration. The aggregate consideration for the
9 assets of the purchase business shall be \$3 million to be paid
10 at closing.

11 Q. What was the price that the letter of intent contemplates
12 the purchasers paying for the Atlanta Dream?

13 A. Three million U.S. dollars.

14 MR. THOMPSON: Mr. Ross, could you please advance
15 Government Exhibit 41 to page four. If you could bridge page
16 four and five. Could you scroll up a little bit, please.

17 Q. Directing your attention to the bottom of page three and
18 the top of page four, whose names are listed as the purchasers?

19 A. Dwight Howard, Cal Darden, Sr., Charles Briscoe.

20 Q. Is there a signature associated with or provided for each
21 of those names on this document?

22 A. Yes.

23 Q. What date is listed under the signatures?

24 A. July 31, 2020.

25 Q. Did there come a time when Government Exhibit 41 was

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1 provided to the WNBA?

2 A. Yes.

3 Q. Did you hear back from the WNBA about this document?

4 A. Yes.

5 Q. What, if anything, was discussed pertaining to this
6 document?

7 A. The WNBA, the Commissioner specifically said, thank you for
8 submitting this letter of intent. We appreciate you furnishing
9 this information, and we will be prepared to engage with this
10 potential purchasing group and take them as appropriate through
11 the process that we need to follow in potentially purchasing
12 the Atlanta Dream.

13 Q. What, if any, issues were raised with respect to members of
14 the investment group?

15 A. The commissioner pointed out that Dwight Howard was an
16 active NBA player and that that might create a problem because
17 the NBA has a rule that no active NBA player can be part of an
18 ownership group of an NBA team. The view is that probably
19 would extend to a WNBA team. So the view was this is an issue
20 that may well need to be settled.

21 Q. Did you and Calvin Darden, Jr. discuss the issue that
22 Mr. Howard's status as a player in the NBA opposed his efforts
23 to acquire the Dream?

24 A. Yes.

25 Q. Approximately when did you and Calvin Darden, Jr. discuss

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1 this issue?

2 A. In early August of 2020.

3 Q. During this discussion what did you say to Calvin Darden,
4 Jr.?

5 A. I relaid the views from the WNBA commissioner that it could
6 well be an issue if Dwight Howard continued to be an active
7 player. That if he chose not to play, then there would not be
8 an issue, but that candidly he needed to make up his mind.

9 Q. What did Calvin Darden, Jr. say to you after you explain
10 this issue?

11 A. He understood.

12 Q. Did Calvin Darden, Jr. tell you who the owners of the
13 Atlanta Dream would be if the investment group was successful
14 in acquiring the Dream?

15 A. Yes.

16 Q. Who did he tell you?

17 A. Dwight Howard, Cal Darden, Sr., Charles Briscoe.

18 MR. THOMPSON: Mr. Ross, can you please publish for
19 the witness and the jury what's been admitted as Government
20 Exhibit 2119.

21 Q. Mr. Brock, what is this document?

22 A. It's an email.

23 Q. What's the date of this email?

24 A. October 22, 2020.

25 Q. Who is it from?

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1 A. Calvin Darden, Jr.

2 Q. Who is the recipient?

3 A. I was.

4 MR. THOMPSON: This email says: John, my apologies
5 for the delay. Per our discussion, please see attached Atlanta
6 Dream vision plan. I look forward to speaking tomorrow at
7 11:30 a.m. to address any questions and/or concerns you may
8 have. Looking forward to it. Thanks again best Calvin.

9 Q. The second paragraph of this email begins, per our
10 discussion. What had you and Calvin Darden, Jr. discussed?

11 A. I had said to Calvin Darden, Jr. that it would be most
12 helpful if he and his investor group could put together a plan
13 for how they would manage, run, organize the Atlanta Dream
14 under new ownership and make it successful. That I thought
15 based on my conversations with the WNBA with the league that
16 such an outline of their plans would be incredibly helpful.

17 Q. Now, directing your attention to the attachments line of
18 the email. Do you see that?

19 A. Did you ask me to read it?

20 Q. Do you see the attachments?

21 A. Yes, I do.

22 Q. Can you read the text listed next to attachments?

23 A. Atlanta Dream vision plan-1.PDF. Untitled attachment
24 00071.HTM.

25 MR. THOMPSON: Mr. Ross you can zoom out. And can you

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1 please scroll Mr. Ross slowly through Government Exhibit 21,
2 more slowly if you're able, 2119.

3 Q. Mr. Brock, what is this document that's scrolling in front
4 of you?

5 A. This is entitled Atlanta Dream vision plan.

6 Q. And is this the attachment that was attached to the email?

7 A. Yes.

8 Q. What, if anything, did Calvin Darden, Jr. tell you about
9 this document?

10 A. Calvin Darden, Jr. explained that this was a document which
11 again outlined how his ownership group or how the ownership
12 group of which he was apart would manage, own and cause the
13 Atlanta Dream to be successful going forward.

14 MR. THOMPSON: Mr. Ross, can you please go to the
15 first page of the attachment to Government Exhibit 2119.

16 Q. What does the cover page say?

17 A. Atlanta Dream.

18 MR. THOMPSON: And if you could please scroll down to
19 page three, Mr. Ross. Thank you. And if you're able to zoom
20 in on this slide. Thank you.

21 Q. Do you see a logo on this slide?

22 A. Yes.

23 Q. What does it say?

24 A. DSG Darden Sports Group.

25 MR. THOMPSON: Below that logo Government Exhibit 2119

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Brock- Direct

1 says, Darden Sports Group, DSG, led by prominent Atlanta
2 businessman Cal Darden, Sr. is proud to have an opportunity to
3 become the next owner of the WNBA's Atlanta Dream.

4 Mr. Ross, you can exit from this slide and please
5 advance to page five. And again if you could zoom in on this
6 slide, please. Thank you.

7 Q. Who is pictured here?

8 A. Cal Darden, Sr.

9 Q. What, if anything, did Calvin Darden, Jr. tell you about
10 his father's involvement with the Darden Sports Group?

11 A. Calvin Darden, Jr. said that his father would be one of the
12 principle owners in the group interested in buying the Atlanta
13 Dream.

14 MR. THOMPSON: Mr. Ross, can you zoom out of here and
15 please advance to page seven. Again, thank you.

16 Q. Directing your attention to page seven of Government
17 Exhibit 2119. This says advisory board. Darden Sports Group
18 has assembled a world class advisory board comprised of
19 superstar leaders within the areas of music, television, film,
20 professional sports, business and community. Each board member
21 has committed to using their ideas, voices, platforms,
22 resources, relationships and influence to support the Atlanta
23 Dream and its various initiatives. The individuals listed are
24 Jennifer Baltimore, Senior Vice President Universal Music
25 Group, Rosalind Brewer, chief operating officer, Starbucks;

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1 Shirley Franklin, former mayor of Atlanta board member of Delta
2 Airlines, Lamar Jackson, quarterback 2019 NFL's most valuable
3 player Baltimore Ravens. Naomi Osaka, number one ranked women's
4 tennis player, 2020 U.S. Open champion, Women's Tennis
5 Association; Tyler Perry, writer, director, producer, actor,
6 Emmy and NAACP awards winner, Tyler Perry Studios, Issa Rae
7 actress, writer, and producer, Emmy award nominee HBO's
8 Insecure, Golden Globe Nominee; Kanye West, rapper, producer
9 and fashion designer, 21X time grammy awards Yeezy/Adidas.

10 What effect, if any, did this list of individuals and
11 their involvement with the Darden Sports Group have on you?

12 A. It's quite an impressive list of members of an advisory
13 board spanning again, film, television, music, sports, very
14 impressive group of people on an advisory board.

15 Q. What effect if any did the advisory board have on your
16 assessment of Darden Sports Group viability as a potential
17 purchaser of the Atlanta Dream?

18 A. My assessment was that if this advisory board had been
19 assembled it would be really a huge step forward in their
20 likelihood of being able to buy the Atlanta Dream and be
21 successful.

22 Q. Did you ask Calvin Darden, Jr. about the individuals listed
23 on the advisory board?

24 A. Yes.

25 Q. What did you ask him?

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1 A. Had each of them been contacted, and did they commit to
2 being on this advisory board.

3 Q. What did he say?

4 A. Yes.

5 MR. THOMPSON: Mr. Ross, could you please zoom out and
6 advance to page 17 of Government Exhibit 2119. This slide
7 reads: Corporate affiliations. DSG will be committed to
8 keeping fans at the core of its business strategy by
9 customizing and tailoring, messaging and engagements with fans
10 via brand partnerships. The new Atlanta Dream will embrace
11 innovation to drive enhanced fan engagement and extend the
12 spirit of these dealings to its corporate and media partners.
13 Given DSG's extensive relationships with the C-suites of some
14 of America's largest corporation, especially those based in the
15 Atlanta area, the new Atlanta Dream will attract a
16 significantly higher amount of corporate support and investment
17 than ever before.

18 This slide lists the following companies: UPS,
19 McDonald's, Starbucks, Target, Aramark, Coca Cola, Universal
20 Music Group, delta, the Home Depot, Yeezy, TikTok, Tyler Perry
21 Studios, Cardinal Health, Aflac, Equifax and AJC.

22 What effect, if any, did this list of corporate
23 partners have on you?

24 A. It had a very positive effect as you got some significant
25 corporations here, major Fortune 500 corporations, several of

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1 which are physically located their headquarter in Atlanta.

2 Q. Now, how did this list of corporate partners compare to the
3 Atlanta Dream corporate affiliations at the time you were
4 trying to sell it?

5 A. It's a much greater and more expanded list of potential
6 corporate sponsorships. Coca Cola had been and was a
7 significant sponsor and Delta had been a minor sponsor, but
8 candidly most of the others were not sponsors of the Atlanta
9 Dream.

10 Q. What effect, if any, did the corporate partners listed in
11 Government Exhibit 2119, page 17, have on your assessment of
12 Darden Sports Group viability as a purchaser?

13 A. My assessment was that with this group of corporate
14 sponsors, their likelihood of being successful in running and
15 managing the Atlanta Dream in a positive way was greater than
16 it would have been without these.

17 Q. Did you ask Calvin Darden, Jr. any questions about the
18 companies listed on this slide?

19 A. Yes.

20 Q. What did you ask him?

21 A. I said have you had preliminary or discussions of any kind
22 with these potential corporate sponsors.

23 Q. What did he say?

24 A. Yes.

25 MR. THOMPSON: Mr. Ross, you can take down this

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1 exhibit. Thank you.

2 Q. Did there come a time when Calvin Darden, Jr. sent you a
3 second version of the vision plan?

4 A. Yes.

5 MR. THOMPSON: Mr. Ross, can you please publish for
6 the witness and the jury what's been admitted as Government
7 Exhibit 2144.

8 Q. Mr. Brock, what is this document?

9 A. This is an email.

10 Q. And what's the date of this email?

11 A. December 7, 2020.

12 Q. Who is the sender?

13 A. Cal Darden, Jr.

14 Q. Who's the recipient?

15 A. I am.

16 Q. And who is copied?

17 A. Chris Sienko the general manager of the Atlanta Dream and
18 Cal Darden, Jr.

19 Q. What is the subject?

20 A. Atlanta Dream vision plan.

21 Q. And does this email have any attachments?

22 A. Yes.

23 Q. What are the names of the attached files?

24 A. Atlanta Dream vision plan revised PDF, untitled attachment
25 0068.TXT.

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1 MR. THOMPSON: Mr. Ross, could you please exit the
2 zoom in and could you please scroll. You can actually stop and
3 go back to the first page of this document.

4 Q. Mr. Brock, do you recognize this?

5 A. Yes.

6 Q. What is it?

7 A. It's the Atlanta Dream vision plan revision.

8 Q. And was this attached to the email that you just described?

9 A. Yes.

10 Q. What does the cover page say?

11 A. Atlanta Dream.

12 MR. THOMPSON: Mr. Ross, can you please advance to
13 page three and could you please zoom.

14 Q. Do you see a logo?

15 A. Yes.

16 Q. What does the logo say?

17 A. DSG Darden Sports Group.

18 MR. THOMPSON: The text under this logo says: Darden
19 Sports Group, DSG, lead by prominent Atlanta businessman Cal
20 Darden, Sr. is proud to have an opportunity to become the next
21 owner of the WNBA's Atlanta Dream. In addition to Mr. Darden,
22 DSG ownership ranks are comprised of former Atlanta mayor and
23 businesswoman Shirley Franklin and one of the entertainment
24 industry's powerful woman Jennifer Baltimore.

25 Q. Did you talk to Calvin Darden, Jr. about these three

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1 owners?

2 A. Yes.

3 Q. What, if anything, did he say about them?

4 A. He said that Calvin Darden, Sr. would be the majority owner
5 and that Shirley Franklin and Jennifer Baltimore were committed
6 to be part of the ownership group.

7 MR. THOMPSON: Mr. Ross, you can exit the zoom and
8 please advance to page five.

9 Q. Who's pictured here?

10 A. Cal Darden, Sr.

11 MR. THOMPSON: Mr. Ross, please advance to slide six.

12 Q. Whose name appears toward the top of this slide?

13 A. Shirley Franklin.

14 Q. Please advance to the slide seven.

15 Whose name appears toward the top of this slide?

16 A. Jennifer Baltimore.

17 MR. THOMPSON: Ms. Ross, please advance to slide nine.

18 Q. What is the heading of this slide?

19 A. Advisory board.

20 Q. Are the people on this slide, Mr. Brock, the same as those
21 that are shown in the version of the vision plan that you
22 received in October?

23 A. Yes.

24 Q. Did you at any point speak with any of the individuals
25 featured on the advisory board?

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1 A. Yes.

2 Q. Who was that?

3 A. Shirley Franklin.

4 Q. What did Shirley Franklin say?

5 A. Shirley Franklin said that she was very pleased to be part
6 of the ownership group, that as a former mayor of Atlanta she
7 was very hopeful that this group would be successful in buying
8 the Atlanta Dream, keeping the Atlanta Dream in Atlanta and
9 making it prosperous and successful.

10 Q. Aside from Shirley Franklin, how many other people are
11 listed on the advisory board?

12 A. Seven.

13 Q. Did you contact or speak with any of those seven people?

14 A. No.

15 MR. THOMPSON: Could you please advance to slide 19,
16 Mr. Ross.

17 Q. What's the heading of this slide?

18 A. Corporate affiliations.

19 Q. Are the companies or corporations listed on this slide the
20 same as those listed in the version of the vision plan that you
21 received in October of 2020?

22 A. Yes.

23 Q. How, if at all, did the vision plans that Calvin Darden,
24 Jr. sent you influence your view as Darden Sports Group as a
25 purchaser of the Dream?

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1 A. My sense was that I was positively encouraged by what I saw
2 in the Atlanta Dream vision plan.

3 MR. THOMPSON: Mr. Ross, could you please scroll to
4 page one of this exhibit.

5 Q. When did Calvin Darden, Jr., send you the revised version
6 of the vision plan?

7 A. December of 2020.

8 Q. Mr. Ross, you can take down this exhibit please.

9 Did there come a time when the second version of the
10 revised version of the vision plan was sent to the WNBA?

11 A. Yes.

12 Q. After the second version of the vision plan was sent to the
13 WNBA, were you still trying to sell the Atlanta Dream?

14 A. Yes.

15 Q. After the second version of the vision plan was sent to the
16 WNBA, did you learn that of any additional potential
17 purchasers?

18 A. Yes.

19 Q. Who was that?

20 A. Northland Financial from Boston.

21 Q. What was your view -- excuse me. What was your view of
22 Northland as a potential acquirer?

23 A. Northland was suggested as a potential buyer by Cathy
24 Engelbert from the WNBA. So at the outset I was positively
25 inclined to talk with them, listen to them and see what they

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1 might be interested in. We also did some fact checking and
2 realize that it was a significant real estate company
3 headquartered in Boston; and therefore concluded that this
4 group could be a potential and very legitimate buyer of the
5 Dream.

6 Q. When you say fact checking, what do you mean by that?

7 A. Looking at -- it's a privately owned company, but we
8 checked out the kinds of businesses they owned and their
9 background and their history all of which is public
10 information.

11 Q. And what view, if any, did you form of Northland?

12 A. My view was that Northland Financial was a legitimate and
13 potentially attractive buyer.

14 Q. Did you speak with any representatives from Northland?

15 A. Yes.

16 Q. Who was that?

17 A. Suzanne Abair at the time who was executive vice president.

18 Q. After you spoke with representatives of Northland, did you
19 speak again to Calvin Darden, Jr. about the Dream?

20 A. Yes.

21 Q. What did you say to Calvin Darden, Jr.?

22 A. I explained that I thought the offer that they had put
23 forward from the group that Calvin represented would not be in
24 all likelihood significant to be the preferred buyer.

25 Q. And what did Calvin Darden, Jr. tell you?

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1 A. That he understood.

2 MR. THOMPSON: Mr. Ross, could you please publish
3 what's been admitted as Government Exhibit 2158.

4 Q. What is this document?

5 A. It's an email.

6 Q. Who sent this email?

7 A. I did.

8 Q. What's the date?

9 A. December 29, 2020.

10 Q. Who's the recipient?

11 A. Cal Darden, Jr.

12 Q. What text does it say next to the "to" line?

13 A. The revised LOI.

14 Q. Excuse me, Mr. Brock. What text does it say next to the
15 "to" line?

16 A. Calvin Darden, Jr. Calvin@Dardenenterprises.com.

17 Q. What email address did you use to communicate with Calvin
18 Darden, Jr.?

19 A. Calvin@Dardenenterprises.com.

20 Q. What does the subject of this email say?

21 A. Revised LOI.

22 Q. What does LOI stand for?

23 A. Letter of intent.

24 MR. THOMPSON: This email says: Hi, Calvin. Hope you
25 are keeping safe. Just checking to see if you were expecting

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1 to be able to get a revised updated LOI to me fairly soon. All
2 the best, John.

3 Q. Did there come a time when Calvin Darden, Jr. provided you
4 with a revised letter of intent?

5 A. Yes.

6 MR. THOMPSON: Mr. Ross, you can take down this
7 exhibit. Could you please publish what's been admitted as
8 Government Exhibit 2201.

9 Q. What is this document?

10 A. An email.

11 Q. What's the date?

12 A. 6th of January 2021.

13 Q. Did you receive this email?

14 A. Yes.

15 Q. Who sent it to you?

16 A. Calvin Darden, Jr.

17 MR. THOMPSON: This email says: Hi, John, per our
18 conversation, please see attached revised letter of intent that
19 reflects the new purchase price. Please let me know if you
20 have any questions or require any additional information.

21 Thank you. Best Calvin.

22 Could you please exit the zoom out and could you
23 please scroll to the second page of Government Exhibit 201.

24 Q. What is this document?

25 A. It's a letter of intent to purchase the Atlanta Dream.

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1 Q. Who sent you this document?

2 A. Calvin Darden, Jr.

3 MR. THOMPSON: This document says: Letter of intent.
4 This non-binding letter of intent is signed as of December 24,
5 2020 by and between Calvin Darden, Sr. and Shirley Franklin,
6 purchasers, and Dream Too, LLC.

7 Could you please focus in on section two, Mr. Ross.

8 This says: Proposed terms. Dream Too LLC, seller,
9 owns the WNBA team Atlanta Dream, the purchase business, which
10 plays in the City of Atlanta, Georgia, seller, is seeking to
11 sell 100 percent of its assets to purchasers. Purchasers may
12 form an entity that is owned by them for the purpose of
13 acquiring the assets. A summary profile of each of the
14 purchasers attached hereto as exhibit A.

15 Mr. Ross, you can exit that, please.

16 Q. What transaction did this letter of intent contemplate?

17 A. Purchase of the Atlanta Dream.

18 Q. Purchase by whom?

19 A. By Calvin Darden, Sr. and Shirley Franklin.

20 MR. THOMPSON: Section 22 consideration says:
21 Aggregate consideration for the assets of the purchase business
22 shall be 3, 500,000 to be paid at closing.

23 Q. What were the purchasers willing to pay for the Atlanta
24 Dream?

25 MR. DONALDSON: I'm sorry, Judge, which purchasers?

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1 MR. THOMPSON: I'm happy to restate the question.

2 THE COURT: Yes.

3 Q. Mr. Brock, directing your attention to the first line under
4 the heading letter of intent. Is there a defined term
5 purchasers?

6 A. The purchasers were Calvin Darden, Sr. and Shirley
7 Franklin.

8 Q. Now, what price according to this letter of intent were
9 Calvin Darden, Sr. and Shirley Franklin willing to pay to
10 purchase the Atlanta Dream?

11 A. 3, 500,000 U.S. dollars.

12 Q. Did you and Calvin Darden, Jr. discuss the second letter of
13 intent that Calvin Darden, Jr. sent you?

14 A. Yes.

15 Q. What, if anything, did you tell Calvin Darden, Jr.?

16 A. I said thank you for the revised letter of intent. Thank
17 you for increasing the proposed purchase price, but candidly I
18 don't think this is going to be sufficient to end up being the
19 preferred buyer.

20 Q. After you told him that, did Calvin Darden, Jr. raise the
21 offer purchase price?

22 A. No.

23 MR. THOMPSON: Mr. Ross, you can take down this
24 exhibit, please.

25 Q. Did your effort to sell the Atlanta Dream succeed?

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1 A. Yes.

2 Q. To whom did you sell the team?

3 A. Northland Financial.

4 Q. Who was your point of contact at Northland?

5 A. Suzanne Abair, executive vice president.

6 Q. Approximately when did you sell the team?

7 A. Around March the 1st of 2021.

8 Q. And is March 1st, is that when the deal closed or when you
9 sold the team?

10 A. That's when the deal closed.

11 Q. Did you tell Calvin Darden, Jr. that the Atlanta Dream
12 would be sold to another group of buyers?

13 A. Yes.

14 Q. Approximately when did you tell Calvin Darden, Jr. that the
15 team would be sold to another group?

16 A. In February of 2021.

17 Q. What, if anything, did Calvin Darden, Jr. say to you after
18 you told him this?

19 A. He said thank you for letting me know. I'm sorry we're not
20 the preferred buyer, but I understand.

21 Q. After you told Calvin Darden, Jr. that the team had
22 accepted a different purchase offer, did you have any further
23 discussions or conversations with him pertaining to the Atlanta
24 Dream?

25 A. No.

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1 MR. THOMPSON: Mr. Ross, could can you please publish
2 what's been admitted as Government Exhibit 2413. Actually, you
3 cannot zoom out here. Can you scroll to page two, please.
4 Forgive me, Mr. Ross. Exit the zoom out and scroll back up to
5 page one, please.

6 Q. Mr. Brock, who sent this email?

7 A. Calvin Darden, Jr.

8 Q. And is there a document attached?

9 A. Yes.

10 Q. What does the attachment say?

11 A. Darden Sports Group Atlanta Dream PDF.

12 MR. THOMPSON: Mr. Ross, now please exit this and
13 scroll to page two. Could you zoom in, please.

14 Q. Before preparing to testify in this trial had you ever seen
15 Government Exhibit 2413?

16 A. No.

17 MR. THOMPSON: Government Exhibit 2413 says: Letter
18 of intent. This letter of intent is signed as of February 15,
19 2021 by and between Darden Sports Group, Calvin Darden, Sr. and
20 Shirley Franklin purchasers and Dream Too, LLC and Lawrence
21 Gottesdiener.

22 Q. Did Dream Too, LLC, ever enter into a letter of intent to
23 jointly sell anything with Lawrence Gottesdiener?

24 A. No.

25 Q. Who is Lawrence Gottesdiener?

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1 A. He's a senior executive at Northland Financial. I think
2 he's currently the CEO.

3 Q. What is the date of this letter of intent?

4 A. February 15, 2021.

5 Q. Was February 15, 2021 before or after the Dream was sold to
6 Northland?

7 A. It was before.

8 Q. Did your wife Mary Brock and Ms. Loeffler still own the
9 team as of the date of this letter of intent?

10 A. Yes.

11 MR. THOMPSON: Mr. Ross, can you please zoom in on
12 section two.

13 Proposed terms. Dream Too, LLC, seller, owns the WNBA
14 team Atlanta Dream, the purchase business, which plays in the
15 city of Atlanta Georgia. Seller is seeking to sell nine
16 percent of its assets to purchasers along with the option for
17 purchasers to increase their stake, ownership stake at 51
18 percent after the conclusion of the 2023 season, and prior to
19 the beginning of the 2024 season for no additional financial
20 consideration.

21 Q. Given your role in the sale of the team is a letter of
22 intent of this nature something about which you would have been
23 aware?

24 A. Yes.

25 Q. Did Dream Too LLC ever seek to sell nine percent of its

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1 assets to the purchasers listed on this letter of intent?

2 A. No.

3 Q. Did Dream Too, LLC ever seek to sell nine percent of its
4 assets to anyone?

5 A. No.

6 MR. THOMPSON: Mr. Ross, could you please pull up page
7 four. Keep going, please. Mr. Ross, page five. There you go.
8 Could you zoom in, please.

9 A. Could you repeat the question.

10 Q. Yes, Mr. Brock. What name is written under purchasers?

11 A. Calvin R. Darden.

12 Q. What title is provided under the name Calvin R. Darden?

13 A. Chairman and chief executive officer Darden Sports Group,
14 LLC.

15 Q. What date is listed?

16 A. February 15, 2021.

17 MR. THOMPSON: You can exit this document, please,
18 Mr. Ross.

19 Q. Was there at any point any agreement between the Darden
20 Sports Group and the owners of the Atlanta Dream?

21 A. No.

22 Q. Was there at any point an agreement between Calvin Darden,
23 Jr. and the owners of the Atlanta Dream?

24 A. No.

25 MR. THOMPSON: Your Honor, may I have a moment.

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1 THE COURT: Yes. I was going to ask now is a good
2 time for us to break for the day.

3 MR. THOMPSON: Yes, your Honor, this would be good
4 time for a break.

5 THE COURT: All right. So, ladies and gentlemen,
6 we're going to break for the day. Remember, do not discuss the
7 case. Go home, relax. You can leave your pads on your chairs
8 or you could take them back to the jury room, but you must
9 leave them in the jury room in the courthouse, sorry, in this
10 courtroom. Remember, do not discuss the case. No research, no
11 Googling. Don't discuss it with your family members. Don't
12 discuss it with one another. If anyone approaches you about
13 the case, please just tell them you can't talk about the case
14 and let Ms. Disla know. Okay. Thank you very much. I'll see
15 everyone tomorrow. We're going to begin at 10:00, 10:00 in the
16 morning. Thank you very much. Have a good evening.

17 (Jury not present)

18 THE COURT: You may be seated. Mr. Brock, you may
19 step down. Thank you very much.

20 (Witness excused)

21 THE COURT: Okay. Is there anything -- well, let me
22 first ask in terms of -- so, Mr. Brock will continue tomorrow
23 with his testimony. What is the potential lineup tomorrow of
24 witnesses?

25 MR. MEAD: We're a little bit in flux to be honest,

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1 your Honor. We hope to get Ms. McMullin from Docusign and
2 from -- I'm sorry. McMullin from Aflac and Ms. Ashlock from
3 Docusign on and off today. They're both very short. We have a
4 couple of other people who we plan to get here kind of first
5 thing tomorrow morning and, so we're still figuring it out. I
6 think that potential candidates are Ms. Ashlock, Ms. McMullin,
7 Ms. Abair, Ms. Rae, Mr. Schmidt and Mr. Howard. Certainly not
8 expecting we'll get through all of those witnesses, and we're
9 hoping that the first order of business this evening is kind of
10 figuring out which of those witnesses and in what order.

11 THE COURT: I know there was a request with regard to
12 certain of those witnesses, and I don't have an objection of
13 accommodating that, but I just need to know if that's going to
14 happen tomorrow or Thursday or what have you? This is with
15 regard to leaving --

16 MR. MEAD: My hesitancy is --

17 THE COURT: -- you just don't know.

18 MR. MEAD: Mr. Howard is almost certainly coming to
19 court tomorrow. Ms. Rae, I'm seeing a nod of the head. So both
20 of those witnesses we expect to have tomorrow.

21 (Continued next page)

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1 MR. MEAD: Ms. Rae is very brief. Mr. Howard is a
2 much more substantial witness, and my team has reminded me also
3 that Ms. Baltimore is certainly a potential witness for
4 tomorrow as well.

5 THE COURT: Okay.

6 MR. DONALDSON: I'm sorry, Judge. We're saying
7 McMullin from Aflac, Docusign, Abair, Rae, Schmidt, Howard, and
8 Baltimore, that's what we're saying might happen tomorrow?

9 THE COURT: That's my understanding.

10 MR. MEAD: Certainly not expecting we'll get through
11 all of them. That had been kind of the game plan to have at
12 least started by the end of the day tomorrow. We just need to
13 figure out witnesses' availability and travel and all of that.

14 THE COURT: Okay. What I would say is at some point
15 this evening, Mr. Mead, if someone from the prosecution team
16 can sort of, as you figure out who's going to be able to make
17 it and the timing, if you could provide the defense with more
18 of a better understanding of which witnesses are likely to be
19 here tomorrow.

20 MR. MEAD: Certainly, your Honor.

21 I think something that would be at least somewhat
22 helpful in that regard, I think we're likely to have very
23 little, if anything, additional with Mr. Brock in the morning
24 tomorrow. Certainly not holding the defense to anything, but
25 it would be helpful to know are they thinking half an hour of

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1 cross, two hours of cross? Just a ballpark number so we can
2 think about how far we're likely to get tomorrow.

3 THE COURT: Sure. So Mr. Donaldson, are you going to
4 be doing the cross-examination?

5 MR. DONALDSON: Yes.

6 THE COURT: And if the government doesn't have any
7 additional questions for Mr. Brock, how long do you currently
8 anticipate the potential cross to be?

9 MR. DONALDSON: Judge, I have no idea, but I can tell
10 you I'm going to not take up too much of the Court's time. But
11 I don't know how long it will be. It won't be less than an
12 hour, I can tell you that.

13 THE COURT: That's helpful. For purposes of timing
14 and so the government can arrange for other witnesses, that is
15 helpful. Okay. Let me ask is there anything else -- and
16 obviously to the extent there are exhibits that the government
17 intends to offer tomorrow, I'd like, if possible, for you to do
18 as you did earlier and indicate what these -- it may be that
19 it's the same list that was provided in that email of
20 September 23. I just want to make sure that there aren't any
21 evidentiary issues we need to deal with in advance of the jury
22 being seated in the box.

23 MR. MEAD: We'll do that, your Honor.

24 THE COURT: Okay. All right. Anything else from the
25 government?

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1 MR. MEAD: Just very briefly, I think Alternate No. 1
2 discussed needing to leave by 5:00 is my memory. Obviously we
3 stayed till 5:30, which was great today. Just wondering what
4 the Court's view is on the end of the day.

5 THE COURT: I think what I will do is I'll have
6 Ms. Disla check tomorrow. My understanding – and again, I
7 could be mistaken concerning what the juror Alternate No. 1 was
8 saying during jury selection. I think he just needs to -- if
9 he's going to be later than 5:00, if it's going to be 5:30, he
10 just needs to communicate with his wife so they can make sure
11 that they have the childcare pickup, I guess, arranged for. So
12 what we can do is figure out whether or not we can be
13 consistently ending at 5:30 or whether or not there will be
14 times when we may have to end a little bit early. If we know
15 in advance, we can try and start a little bit earlier.

16 But with regard to tomorrow, we'll start at 10:00 when
17 we'll find out whether Alternate 1 needs to leave at 5:00.

18 MR. MEAD: If Ms. Disla is speaking to him this
19 evening, I think tomorrow will be a particularly helpful day if
20 we can stay till 5:30, given the stack of witnesses.

21 THE COURT: Anything from the defense?

22 MR. DONALDSON: No, your Honor. Thank you.

23 THE COURT: Okay. All right. Thank you, everyone.

24 I'll see everybody at 10:00. We'll complete the
25 testimony of Mr. Brock, and then continue with the other

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1 witnesses. All right? Thank you very much.

2 If there are any things that we need to discuss in
3 advance, I'd ask that you send an email to my chambers inbox
4 and specifically to Ms. Folly so that we can make sure that I
5 am here early and so that we can deal with those things before
6 we bring the jury out. All right?

7 Obviously if it doesn't involve the first couple of
8 witnesses and it can wait until a break, we can do that. But I
9 would like to resolve any evidentiary issues so we're not
10 spending time at sidebar discussing things that we could take
11 care of in advance. All right?

12 Thank you very much. See everybody tomorrow.

13 (Adjourned to September 25, 2024, at 10:00 a.m.)

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